

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 1:08-CR-148

v.

HON. ROBERT HOLMES BELL

MORRIS TARLARVEOUS WARDLAW,

Defendant.

MEMORANDUM OPINION AND ORDER

This matter is before the Court on defendant's Motion for Modification or Reduction of Sentence Pursuant to 18 U.S.C. §3582(c)(2) (docket #30). On December 19, 2011, the Probation Department filed a Report of Eligibility indicating defendant appeared to be ineligible for consideration of modification of sentence (docket #32). On December 30, 2011, defendant filed an objection to the Report of Eligibility (docket #34).

Based on a review of defendant's motion, the Report of Eligibility, and the original criminal file, the Court has determined that the motion should be denied for the following reason(s):

Defendant was sentenced on November 7, 2008, to concurrent sentences of 54 months custody after pleading guilty to being a Felon in Possession of a Firearm in violation of 18 U.S.C. §922(g)(1), and Possession with Intent to Distribute an Unspecified Quantity of

Cocaine Base in violation of 21 U.S.C. §841(a)(1), (b)(1)(C)..

The two counts were grouped as closely-related counts pursuant to Sentence Guideline §3D1.2(c). The offense level applicable to the group is determined by the most serious count comprising the group pursuant to Sentence Guideline §3D1.3(a). In the instant case, the offense level for the firearm count was greater than the offense level for the drug count. As such, Sentencing Guideline Amendment 750 does not result in a lower offense level.

ACCORDINGLY, defendant's motion is hereby **DENIED**.

Date: March 14, 2012

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE